

Message Text

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ACTION EUR-25

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R 101758Z DEC 73

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 6284

INFO AMEMBASSY BRUSSELS

AMEMBASSY LUXEMBOURG

AMCONSUL ZURICH

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DEPARTMENT ALSO PASS TREASURY AND FRB

E.O. 11652: N/A

TAGS: EFIN, LU, BE, UK

SUBJECT: FAILURE OF U.S. NATIONAL BANK OF SAN DIEGO

REF: STATE 234260

SUMMARY: NATIONAL WESTMINSTER BANK OFFICERS EXPLAINED THEIR POSITION ON THE U.S. NATIONAL BANK SAN DIEGO FAILURE. THEY CONSIDER THAT FDIC ACTION HAS: 1) PLACED VALUE OF LETTERS OF CREDIT IN INTERNATIONAL BANKING IN JEOPARDY; 2) UNFAIRLY CHANGED THE PREFERENCE ORDER OF CREDITORS, WHICH UNDER ENGLISH LAW WOULD BE CONSIDERED FRAUD; AND 3) PLACED IN DOUBT THE VALUE OF U.S. NATIONAL BANK INSPECTIONS. THIS MUCH SAID, NATIONAL WESTMINSTER WOULD PREFER TO SETTLE ITS CLASS ACTION OUT OF COURT AND HOPES THAT FDIC WILL MODIFY ITS POSITION. END SUMMARY.

1. OFFICIALS OF INTERNATIONAL BANKING DIVISION OF NATIONAL WESTMINSTER BANK (L.V.S. GREEN, GENERAL MANAGER; G. CATHLES, SENIOR INTERNATIONAL EXECUTIVE FOR THE AMERICAS; M.A. LYDON, MANAGER FIELD PROJECTS) TOOK LIMITED OFFICIAL USE

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INITIATIVE IN RAISING ITS DISPUTE CONCERNING U.S.

NATIONAL BANK OF SAN DIEGO WITH TREASURY REPRESENTATIVES
ASSIGNED TO EMBASSY.

2. NATIONAL WESTMINSTER STRESSED THAT IT IS ESPECIALLY
DISTRESSED ON THREE COUNTS, I.E., THAT FDIC ACTION
HAS PLACED IN QUESTION THE VALUE OF LETTERS OF
CREDIT IN INTERNATIONAL BANKING, THAT FDIC HAS,
THROUGH ITS ACTIONS, DISTURBED WHAT WOULD HAVE
BEEN THE NORMAL PREFERENCE ORDER OF CREDITORS' CLAIMS ON
THE U.S. NATIONAL BANK OF SAN DIEGO (USNB) AND AS
*ECEIVER, HAS MOVED ITSELF TO HIGHER POSITION IN QUEUE
IN TERMS OF REPAYMENT, AND THAT THE FAILURE BRINGS INTO
QUESTION THE VALUE OF INSPECTIONS OF U.S. NATIONAL BANKS.

3. NAT WEST OFFICIALS CONSIDERED THAT INTERBANK LOANS
AND LETTERS OF CREDIT HAVE BEEN UNFAIRLY AND ARBITRARILY
CONSIDERED TAINTED BY FDIC. NAT WEST AND OTHER FOREIGN
BANKS LENT TO USNB, NOT TO AFFILIATES OF C.A. SMITH
(EXCEPT IN ONE OR TWO SPECIAL CASES). IT IS NOT THEIR
FAULT IF USNB FALSIFIED ITS BOOKS. FAILURE TO HONOR
INTERBANK LOANS AND LETTERS OF CREDIT INVOLVING FOREIGN
BANKS HAS SHAKEN THE ENTIRE INTERNATIONAL BANKING
COMMUNITY. FDIC SHOULD REVIEW ITS POSITION. NAT
WEST BELIEVES INTERBANK LOANS AND LETTERS OF CREDIT
SHOULD BE REPAYED ON MATURITY OR IF NOT PAID IN FULL
AT LEAST GIVEN APPROPRIATE PRIORITY WITH DEBTS OWED
TO OTHER CREDITORS. FDIC ACTION ARBITRARILY PLACES
THEM IN A LOWER CATEGORY OF PREFERENCE.

4. NAT WEST OFFICIALS SAY THEY HAVE NO COMPLAINT
ABOUT THE FACT THAT THEY HAVE LOST MONEY. UNDER OPTIMUM
CONDITIONS, THEY WOULD NOT EXPECT TO RECEIVE FULL 100
PERCENT REPAYMENT. THEY DO EXPECT, HOWEVER, THAT THEY
HAVE A RIGHT TO BE TREATED EQUALLY WITH OTHER CREDITORS.

5. THIS MUCH SAID, NATIONAL WESTMINSTER WOULD VERY MUCH
LIKE TO SETTLE ITS CASE OUTSIDE OF COURT. A PRIMARY
CONSIDERATION SHOULD BE TO RESTORE THE SANCTITY OF
LETTERS OF CREDIT IN INTERNATIONAL OPERATIONS.

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6. IN THE INTERIM, NAT WEST OFFICIALS SAID MAJOR BANKS IN
LONDON, INCLUDING SOME OF THE LARGEST U.S. BANKS, ARE
REVIEWING THEIR OWN OPERATIONS AND LOANS TO SMALLER AND
MEDIUM SIZED U.S. BANKS, ESPECIALLY THOSE WITH FAMILY
MANAGEMENT. OVER \$100 MILLION OF NAT WEST LOANS TO
SMALLER U.S. BANKS WILL NOT BE RENEWED OR ROLLED OVER.

7. IN A SEPARATE CONVERSATION, SENIOR OFFICIALS OF

BARCLAYS BANK RAISED THIS ISSUE WITH US, SAYING IT WAS THE ONLY EXAMPLE THEY KNOW OF UNFAIR TREAT*ENT BY U.S. AUTHORITIES OF FOREIGN FINANCIAL INSTITUTIONS. FAILURE OF

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NEW YORK STATE BANK AUTHORITY TO ALLOW BARCLAY'S TO TAKE OVER LONG ISLAND BANK HAD BEEN A DISAPPOINTMENT, BUT NOT UNFAIR.* TREATMENT OF NAT WEST AND OTHER FOREIGN BANKS INVOLVED IN AN DIEGO CASE IS UNFAIR. BARCLAYS OF COURSE IS INVOLVED IN CLAIMS AGAINST USNB. ITS VIEWS ARE NOT UNBIASED.

8. COMMENT. AS APPROPRIATE, TREASURY REPRESENTATIVES DREW ON GUIDANCE IN STATE 234260. HOWEVER, THERE IS NO DENYING THAT SAN DIEGO FAILURE AND PUBLICITY IN BRITISH PRESS WILL HAVE SOME DAMAGING EFFECT ON THE U.S. FINANCIAL IMAGE IN LONDON. LONDON BANKS ARE REVIEWING AND CUTTING BACK ON THEIR LENDING LIMITS TO SMALLER U.S. BANKS. ONE MONEY MARKET BROKER REPORTS THAT THIS IS OBVIOUS IN DEALING ROOMS THROUGHOUT THE CITY. SOURCE SAID THAT MAJOR U.K. CLEARING BANKS, SOME BANKS ON THE CONTINENT, AND POSSIBLY SOME LARGER U.S. BANKS IN LONDON ARE RELUCTANT TO ENTER INTO UNSECURED INTERBANK LOANS WITH SMALLER U.S. BANKS. SMALLER U.S.

BANKS WERE DEFINED AS ANY THAT ARE NOT IN THE TOP 100 IN TERMS OF ASSETS, OR WHICH HAVE NOT HAD A RELATIONSHIP WITH THE LENDER FOR AT LEAST A DECADE. CUT BACK IN CREDIT LINES ALSO EXTENDS TO SOME OF SMALLER U.S. BANKS WITH BRANCHES IN LONDON. BROKER SAID THAT LIMITED OFFICIAL USE

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CUTBACK STARTED ABOUT THREE WEEKS AGO. IT MAY HAVE INCREASED SOMEWHAT SINCE THEN. IT IS NOT SNOWBALLING, BUT NEITHER DOES TREND SHOW ANY SIGNS OF DIMINISHING. AN ELEMENT OF UNCERTAINTY HAS BEEN INTRODUCED. LARGEST U.S. BANKS APPEAR EXEMPT FROM ANY REDUCTION IN CREDIT LINES AND ALSO APPARENTLY ABOVE SUSPICION. TWO SOURCES INDICATED THAT NEW YORK STATE BANK EXAMINATIONS NOW APPEAR TO BE GIVEN HIGHER VALUE THAN NATIONAL BANK EXAMINATIONS IN TERMS OF ASSESSING DEALINGS WITH U.S. BANKS.

9. UNFAVORABLE COMMENT STRESSES ARBITRARINESS OF U.S. REGULATORY AUTHORITIES. EVEN WHEN PRESS ARTICLES ARE BALANCED, THEY NONETHELESS INDICATE THAT FOREIGN BANKS DISPUTING FDIC DECISIONS APPEAR TO HAVE JUSTIFICATION. WE ARE REPORTING ONE EXAMPLE BY AIRGRAM FROM FINANCIAL EDITORS PAGE OF LONDON TIMES TUESDAY, DECEMBER 4. ARTICLE IN QUESTION REFLECTS MANY OF VIEWS WE HAVE HEARD FROM NAT WEST.

10. EMBASSY HOPES THAT WHATEVER DECISION IS ARRIVED AT, INCLUDING POSSIBILITY OF OUT OF COURT SETTLEMENT, WILL CLEARLY AND CONVINCINGLY DEMONSTRATE TO LONDON FINANCIAL COMMUNITY THAT U.K. AND OTHER FOREIGN BANKS INVOLVED ARE BEING TREATED FAIRLY. BELIEVE U.S. AUTHORITIES SHOULD EXPLORE NAT WEST DESIRE TO SETTLE OUT OF COURT. GENERAL VIEW IN LONDON AT THE MOMENT IS THAT THERE ARE PERHAPS AS MANY AS 20 FOREIGN BANKS INVOLVED IN CLAIMS AGAINST USNB; COULD THEY ALL BE WRONG?

11. UNFORTUNATE ASPECT IS THAT WITH U.S. INTENDING TO REMOVE CAPITAL CONTROLS, WHICH IN ITSELF COULD TAKE SOME BUSINESS AWAY FROM LONDON, SITUATION OF THIS SORT LENDS ITSELF TO WHISPERING CAMPAIGN THAT FUNDS LENT TO SMALLER AND MEDIUM SIZED U.S. BANKS ARE UNSAFE. IF U.K. BANKS INVOLVED COME AWAY WITH IMPRESSION THAT THEY HAVE NOT BEEN FAIRLY TREATED, WE MUST EXPECT BAD PUBLICITY TO CONTINUE. IF U.K. BANKS CAN BE CONVINCED THEY ARE BEING FAIRLY TREATED, DESPITE SOME FINANCIAL LOSSES, THEY THEMSELVES WOULD PROBABLY TAKE THE LEAD IN STATING THAT MATTER HAD BEEN SATISFACTORILY RESOLVED.

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12. EMBASSY IS REPORTING AT SOME LENGTH AND IN CANDOR.
WE KNOW THAT COMMENTS BETWEEN BRITISH BANKS CONCERNING
USNB HAVE BEEN LESS POLITE THAN IN THE CONVERSATIONS THAT
WE HAVE HAD. SEPARATE MESSAGE WILL REPORT VIEWS OF BANK
OF ENGLAND.

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